

Family Rights Act

352.1 PURPOSE AND SCOPE

To set forth guidelines for the Family Rights Act. This policy applies to all designated employees.

352.1.1 DEFINITIONS

Family Rights Act - Allows California workers to take up to four (4) months of unpaid leave in order to care for a sick child, spouse or parent. It requires every employer with 50 or more workers to provide leaves of absence to care for a newborn or adopted child or a seriously ill child, spouse or parent.

"Continuous Service" for purposes of the Act does not mean full time but means the employee has been on the employer's payroll or otherwise worked regularly for the employer or been on active employee status for at least one year.

"Four months" for purposes of the Act means 88 working days, based on an average of 22 working days per month for four months. The minimum duration of family care leave is one week.

352.2 AUTHORITY AND REFERENCES

- FEHC Regulations

352.3 POLICY

Family Rights Act shall be used in accordance with the provisions of Federal Employment Housing Commission regulations.

352.4 PROCEDURE

- (a) The right to take Family Care Leave is separate and distinct from the right to take pregnancy disability leave.
 1. If a pregnant employee is disabled by pregnancy, childbirth or related medical conditions for the maximum four (4) months, she is then entitled to only one (1) additional month of family care leave for the birth of her child, unless the employer or employee agree otherwise.
 2. An employee who takes five (5) months of combined pregnancy disability leave and family care leave remains entitled to request to take a family care leave (of up to the remaining three months) for reasons other than the birth of her child during the relevant 24-month period.
 3. If a pregnant employee is disabled by pregnancy, childbirth or related medical conditions for less than the maximum four months allowed, there is no restriction on the amount of family care leave she may request, except for the restrictions applicable to every employee.
- (b) The Act prohibits an employee from using sick leave during the period of the family care leave unless mutually agreed to by the employer and employee.

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- (c) If the employee's need for family care leave is foreseeable, the employee shall provide reasonable advance notice to the employer. If the leave is foreseeable due to planned medical treatment or supervision, the employee is required to make reasonable effort to schedule the treatment or supervision to avoid disruption to the operations of the employer.
- (d) The Act makes it an unlawful employment practice to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against any individual because of any of the following:
 - 1. An individual's exercise of the right to family care leave; or
 - 2. An individual's giving information or testimony as to his or her own family care leave, or another person's family care leave, in any inquiry or proceeding related to rights guaranteed under the Act.
- (e) Provisions of the Act shall not be construed to require any changes in collective bargaining agreements during the life of the contract, or until January 1, 1993, whichever occurs first.
- (f) This Act provides an employer shall not be required to grant an employee family care leave which would allow the employee and the other parent of the child family care leave totaling more than a specified amount (i.e., four months in a 24-month period), nor to grant an employee family care leave for any period of time in which the child's other parent is taking family care leave from employment or is unemployed. NOTE: The Act does not specify any mechanism for ascertaining the employment status of an employee's spouse or whether the spouse has taken leave. Presumably, an employer could require an employee to certify the relevant facts as a condition of granting the leave.
- (g) The Act permits an employer to refuse to grant a request for family leave made by an employee if this refusal is necessary to present undue hardship to the employer's operations, or the request is made by a salaried employee who, on the date of the request for family care leave is made, is either one of the five (5) highest paid employees, or is among the top ten (10) percent of the employees in terms of gross salary, whichever group encompasses the greater number of persons, employed by the employer at the same location.
- (h) Any employee taking leave pursuant to the provisions of the Act will continue to be entitled to participate in health plans, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to unpaid leave taken for any other purpose. The employer may require payment for the premiums and shall not be required to make retirement plan payments even though the employee may. However, the non-payment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan.
- (i) During a family leave care period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. An employee returning from leave shall return with no less seniority

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than the employee had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority related benefits such as vacation.

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